

**JOSEPH WHITEMORE****June 1, 2006**

<p style="text-align: right;">Page 38</p> <p>1 Q. Well, he was prescribed Naprosyn 2 for 30 days, right? 3 A. Right. 4 Q. And it was discontinued when he 5 went to the hospital, right? 6 A. Yes. 7 Q. Nineteen days later, approximately? 8 A. Yeah. 9 Q. So what would you do with the rest 10 of the medicine that was left on his card? 11 A. It would have been sent back to the 12 pharmacy or destroyed. We wouldn't have kept it. 13 Q. Do you recall your first encounter 14 with Scott Rodgers? 15 A. No. 16 Q. When did he first complain to you 17 about his stomach? 18 A. I don't remember it very well, but 19 apparently it was that day on morning med rounds. 20 Q. What happened? 21 A. To the best of my recollection, he 22 said that he had a stomach ache, and he wanted 23 Maalox or Mylanta, which I gave him, and then 24 later that day he was sent down to the medical</p>	<p style="text-align: right;">Page 40</p> <p>1 A. No, I don't recall. 2 Q. Do you recall anything else about 3 the discussion other than what you've said, the 4 day of the incident? 5 A. No. 6 Q. How did he get into the medical 7 area? 8 A. He had complained to the officer on 9 the unit that he was throwing up, wasn't feeling 10 well, so he had him come down to medical. 11 Q. Does he come by himself, or does he 12 have to be escorted? 13 A. No, he can come by himself. 14 Q. Who did he complain to, what 15 officer? 16 A. I don't know. 17 Q. Was there any particular officer 18 that he had complained to, or just whoever was 19 nearby? 20 A. There was probably two officers in 21 the unit, and you know, I don't recall which 22 officer called me. 23 Q. Would that be logged anywhere? 24 A. It may be. It should be.</p>
<p style="text-align: right;">Page 39</p> <p>1 department with stomach cramps and nausea and 2 vomiting. I assessed him and sent him to the 3 hospital. 4 Q. Is there something in there that 5 was relevant to that last question? Is there 6 some note in there about your meeting with him 7 that you were reading? 8 MR. BREEN: Objection. 9 Q. I'm just making sure this is from 10 your memory or is it from -- 11 A. No, it's from my memory. There is 12 nothing in here. 13 Q. Was that the only time that he 14 complained to you? 15 MR. BREEN: Objection. 16 A. As far as I know, yeah. I believe 17 that was the first time, and then it was that day 18 that he went to the hospital. 19 Q. You're saying he asked for Mylanta 20 or Maalox? 21 A. Yeah. 22 Q. You didn't have a discussion with 23 him two days before that? 24 MR. BREEN: Objection.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Where would that be logged? 2 A. Probably in the logbooks for the 3 unit. The COs have to fill out logbooks, people 4 coming and going, you know, inmates, in the unit, 5 movement. 6 Q. These logbooks are kept -- 7 A. I would imagine -- 8 Q. -- every day? 9 A. Yes, yes. 10 Q. What did that officer tell you when 11 he called? 12 MR. BREEN: Objection. Go ahead. 13 A. I don't recall specifically, but he 14 must have said, you know, Scott Rodgers isn't 15 feeling well. He's throwing up. Can he be seen? 16 Something along those lines I'm sure. I don't 17 recall specifically. I just remember he came 18 down. 19 Q. What did you do when Scott Rodgers 20 complained to you of these symptoms other than 21 giving him Maalox? 22 A. At the time, nothing. I gave him 23 his Maalox, gave him his meds. I'm not sure if I 24 gave him the Naprosyn that morning or not, but</p>

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<p>1 A. That he vomited, and the vomit was</p> <p>2 brown, maroon in color.</p> <p>3 Q. What does that -- to you what did</p> <p>4 that signify?</p> <p>5 A. That he possibly had a G.I. bleed.</p> <p>6 Q. But you don't remember him saying</p> <p>7 anything else?</p> <p>8 A. No. Who?</p> <p>9 Q. Officer Murray, I'm sorry.</p> <p>10 A. No.</p> <p>11 Q. Prior to that, prior to this day,</p> <p>12 did Rodgers send out any sick call requests?</p> <p>13 A. I don't know.</p> <p>14 Q. Are sick call requests maintained</p> <p>15 by the county?</p> <p>16 A. For a little while.</p> <p>17 Q. How long?</p> <p>18 A. I'm not sure.</p> <p>19 Q. Had you spoken to him prior to that</p> <p>20 day?</p> <p>21 MR. BREEN: Objection.</p> <p>22 A. I really don't remember. After</p> <p>23 this day, I remember him. I didn't really know</p> <p>24 him.</p>	<p>1 Q. Would you discuss contraindications</p> <p>2 with other medicines? I'm sorry, strike that,</p> <p>3 please.</p> <p>4 Would you discuss allergies to</p> <p>5 medication?</p> <p>6 MR. BREEN: Objection.</p> <p>7 A. We wouldn't discuss them. I mean,</p> <p>8 either they have the allergy or not. It would be</p> <p>9 noted on the med sheet and in his chart.</p> <p>10 Q. What are NSAIDs?</p> <p>11 A. Nonsteroidal anti-inflammatories.</p> <p>12 Q. Is that what Naprosyn is?</p> <p>13 A. Yes.</p> <p>14 Q. So if someone is allergic to that,</p> <p>15 what --</p> <p>16 A. We wouldn't give them that, and we</p> <p>17 wouldn't give them aspirin, and we wouldn't give</p> <p>18 them Advil or -- there's quite a few.</p> <p>19 Q. What would happen if you did give</p> <p>20 someone Naprosyn who was allergic to nonsteroidal</p> <p>21 anti-inflammatories?</p> <p>22 MR. BREEN: Objection.</p> <p>23 A. It would depend on the nature of</p> <p>24 their allergy, I mean.</p>
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<p>1 Q. Were there any discussions with</p> <p>2 Dr. Howard or John Smith about Scott Rodgers?</p> <p>3 A. Before this, I don't remember. I</p> <p>4 don't think so.</p> <p>5 Q. What about his prior medical</p> <p>6 history, did you know that?</p> <p>7 A. I didn't know much of it, no.</p> <p>8 Q. Did he have an ulcer prior to</p> <p>9 coming to Plymouth County?</p> <p>10 A. I don't know if he did or he</p> <p>11 didn't. It might say that in here. I didn't</p> <p>12 know. He may have.</p> <p>13 Q. Would someone's prior medical</p> <p>14 condition be something you would discuss with the</p> <p>15 doctor?</p> <p>16 A. On occasion.</p> <p>17 Q. What would it depend on?</p> <p>18 A. If it was significant for -- well,</p> <p>19 if something happened or if it was, you know, a</p> <p>20 point of interest or, you know, kind of a</p> <p>21 learning situation, Dr. Howard wanted us to know</p> <p>22 about something. Certainly it was too hard to</p> <p>23 discuss everybody's past medical history 'cause</p> <p>24 there's just so many people there.</p>	<p>1 Q. If it was severe?</p> <p>2 MR. BREEN: Objection.</p> <p>3 A. Well, not just the severity but the</p> <p>4 type of allergic reaction. If it was anaphylaxis</p> <p>5 or if it was just, you know --</p> <p>6 Q. What does that mean?</p> <p>7 A. With severe anaphylaxis, your</p> <p>8 throat will close up. You know, breathing,</p> <p>9 respiratory distress, that sort of thing. Like,</p> <p>10 you know, some people get stung by bees and get</p> <p>11 anaphylaxis. Some medications will affect you</p> <p>12 that way. It depends on what kind of reaction it</p> <p>13 was known that he had, you know.</p> <p>14 Q. Would that be something that would</p> <p>15 tend to exacerbate the side effects of a certain</p> <p>16 medicine?</p> <p>17 MR. BREEN: Objection.</p> <p>18 A. I don't know if I'm qualified to</p> <p>19 answer that. Ask it again.</p> <p>20 Q. Okay. I'll put it a little bit</p> <p>21 differently. Would that exacerbate the potential</p> <p>22 side effects of Naprosyn, if someone was allergic</p> <p>23 to nonsteroidal anti-inflammatories?</p> <p>24 MR. BREEN: Objection.</p>

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<p style="text-align: right;">Page 78</p> <p>1 MR. BREEN: Objection.</p> <p>2 A. Anywhere between probably four to</p> <p>3 seven days a week.</p> <p>4 Q. How many hours per day?</p> <p>5 A. I don't know.</p> <p>6 Q. Approximately?</p> <p>7 A. If I had to guess --</p> <p>8 MR. BREEN: Just tell him what you</p> <p>9 know.</p> <p>10 A. I don't know.</p> <p>11 Q. What about in 2001, how many days a</p> <p>12 week was he there?</p> <p>13 A. I don't know. Most every day.</p> <p>14 Q. You're an employee of Plymouth</p> <p>15 County, right?</p> <p>16 A. Correct.</p> <p>17 Q. Do you have any type of employment</p> <p>18 contract or --</p> <p>19 A. No.</p> <p>20 Q. You're just a standard employee?</p> <p>21 A. (Witness nods.)</p> <p>22 Q. Right?</p> <p>23 A. Right.</p> <p>24 Q. What about Dr. Howard?</p>	<p style="text-align: right;">Page 80</p> <p>1 know, that he was in the hospital or that he was</p> <p>2 coming back or whatever and he's okay.</p> <p>3 Q. Do you remember anything else about</p> <p>4 the conversation?</p> <p>5 A. No.</p> <p>6 Q. Was that the only time that you</p> <p>7 talked about Scott Rodgers?</p> <p>8 A. We talked about it a little bit</p> <p>9 just recently, just the fact that we were both</p> <p>10 being deposed.</p> <p>11 Q. What was said in that conversation?</p> <p>12 A. I said -- nothing specifically</p> <p>13 other than I had to come here on Thursday and the</p> <p>14 time and are you coming as well.</p> <p>15 Q. And what did he say?</p> <p>16 A. He said he wasn't sure.</p> <p>17 Q. But he received the notice of</p> <p>18 deposition --</p> <p>19 MR. BREEN: Objection.</p> <p>20 Q. -- according to what he said to</p> <p>21 you?</p> <p>22 A. He knew about the deposition, that</p> <p>23 I was being deposed at least.</p> <p>24 Q. Did he say anything about why he</p>
<p style="text-align: right;">Page 79</p> <p>1 A. He's a contractor.</p> <p>2 Q. Does he work for a company or does</p> <p>3 he work on his own?</p> <p>4 A. He works on his own.</p> <p>5 Q. Do you know the nature of the</p> <p>6 relationship, contractual relationship at all?</p> <p>7 A. No.</p> <p>8 Q. Do you know where he went to</p> <p>9 medical school?</p> <p>10 A. Yale.</p> <p>11 Q. College?</p> <p>12 A. Yale, I think.</p> <p>13 Q. How old is he?</p> <p>14 A. I don't know. 60, 65.</p> <p>15 Q. Have you had any discussions with</p> <p>16 him at any time about Scott Rodgers?</p> <p>17 A. Yes.</p> <p>18 Q. When?</p> <p>19 A. After he was sent out.</p> <p>20 Q. Can you describe that conversation?</p> <p>21 A. I don't really recall the</p> <p>22 conversation.</p> <p>23 Q. Do you remember any part of it?</p> <p>24 A. No. Just that we touched base, you</p>	<p style="text-align: right;">Page 81</p> <p>1 doesn't have a lawyer?</p> <p>2 MR. BREEN: Objection.</p> <p>3 A. No.</p> <p>4 Q. Did you talk about anything else</p> <p>5 other than the fact that you both had to come</p> <p>6 here this afternoon?</p> <p>7 A. No.</p> <p>8 Q. How did he seem to you when you</p> <p>9 discussed it? What were your observations of his</p> <p>10 demeanor?</p> <p>11 A. Just like he always is. He didn't</p> <p>12 seem particularly --</p> <p>13 Q. How is he always?</p> <p>14 A. He's a nice guy. He's funny. He's</p> <p>15 personable. He didn't seem flustered or worried.</p> <p>16 Q. But you've never talked about</p> <p>17 depositions with him prior to this?</p> <p>18 A. No.</p> <p>19 Q. So you don't know if he's ever been</p> <p>20 deposed before?</p> <p>21 A. I have no idea.</p> <p>22 Q. Okay. I think that's it.</p> <p>23 MR. BREEN: Just give me a minute.</p> <p>24 (Discussion off the record.)</p>

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<p>1 EXAMINATION</p> <p>2 BY MR. SULLIVAN:</p> <p>3 Q. I want to just make sure I</p> <p>4 understand. The medical log, is that the same</p> <p>5 thing as the medical administration book?</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. And then the intake form</p> <p>8 would be the initial intake?</p> <p>9 A. (Witness nods.)</p> <p>10 Q. And then the third thing would be</p> <p>11 the physical examination form?</p> <p>12 A. Yes.</p> <p>13 Q. It's just those three things?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. I just wanted clarification</p> <p>16 on those three. Thank you.</p> <p>17</p> <p>18 EXAMINATION</p> <p>19 BY MR. BREEN:</p> <p>20 Q. Mr. Whittemore, you were asked by</p> <p>21 Attorney Tumposky whether you had spoken about</p> <p>22 Scott Rodgers at all with Dr. Howard. Do you</p> <p>23 recall that question being asked of you?</p> <p>24 A. Yes.</p>	<p>1 the doctor to get an official order that he's</p> <p>2 being sent out, just so the doctor is aware of</p> <p>3 it.</p> <p>4 Q. And you made Dr. Howard aware at or</p> <p>5 around the time that you sent out Mr. Rodgers</p> <p>6 that you were going to do so or had done so,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. That's all the questions I have.</p> <p>10 Are you all set?</p> <p>11 MR. TUMPOSKY: I want a little</p> <p>12 clarification on that last conversation.</p> <p>13</p> <p>14 FURTHER EXAMINATION</p> <p>15 BY MR. TUMPOSKY:</p> <p>16 Q. How long before you called the</p> <p>17 ambulance or how long -- relative to the time</p> <p>18 that you called the ambulance, when did that</p> <p>19 conversation occur?</p> <p>20 A. Probably within five minutes.</p> <p>21 Q. Before or after?</p> <p>22 A. It was probably after. I</p> <p>23 probably -- I put in motion to send him out, and</p> <p>24 then I called Dr. Howard.</p>
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<p>1 Q. And you testified that there was</p> <p>2 some point in time after Mr. Rodgers had been</p> <p>3 sent to the hospital that you touched base with</p> <p>4 Dr. Howard, and you learned he would be returning</p> <p>5 to the facility, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you mentioned that you had had</p> <p>8 a brief discussion recently with Dr. Howard about</p> <p>9 the fact that you would be appearing for a</p> <p>10 deposition here today, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you've recounted everything you</p> <p>13 remember about that discussion, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Did you also contact Dr. Howard at</p> <p>16 or around the time that Mr. Rodgers reported to</p> <p>17 the medical facility or the medical area before</p> <p>18 you sent him to Jordan Hospital?</p> <p>19 A. Yes, right about at the same time.</p> <p>20 Q. Tell me about that conversation.</p> <p>21 What did you do?</p> <p>22 A. When we're going to send somebody</p> <p>23 out, we notify the shift commander, we notify the</p> <p>24 hospital that the patient is coming, and we call</p>	<p>1 Q. Did you describe the symptoms to</p> <p>2 him?</p> <p>3 A. I'm sure I did, yes.</p> <p>4 Q. What did he say to you?</p> <p>5 A. Okay.</p> <p>6 Q. Just that, that's it?</p> <p>7 A. Yeah.</p> <p>8 Q. Okay.</p> <p>9 MR. BREEN: Nothing further.</p> <p>10 Thanks.</p> <p>11 MR. SULLIVAN: Nothing further.</p> <p>12 (Deposition concluded at 1:16 p.m.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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1	CERTIFICATE	1	CORRECTION SHEET
2	I, Maryellen Coughlin, a Registered	2	DEPONENT: JOSEPH A. WHITEMORE
3	Professional Reporter and Notary Public of the	3	CASE: SCOTT RODGERS VS. CORRECTION OFFICER
4	State of Massachusetts, do hereby certify that	4	ORCHID, ET AL
5	the foregoing is a true and accurate transcript	5	DATE TAKEN: 6/1/06
6	of my stenographic notes of the deposition of	6	*****
7	JOSEPH A. WHITEMORE. Who appeared before me,	7	PAGE / LINE / CHANGE OR CORRECTION AND REASON
8	satisfactorily identified himself, and was by	8	/ /
9	me duly sworn, taken at the place and on the	9	/ /
10	date hereinbefore set forth.	10	/ /
11	I further certify that I am neither	11	/ /
12	attorney nor counsel for, nor related to or	12	/ /
13	employed by any of the parties to the action in	13	/ /
14	which this deposition was taken, and further	14	/ /
15	that I am not a relative or employee of any	15	/ /
16	attorney or counsel employed in this case, nor	16	/ /
17	am I financially interested in this action.	17	/ /
18	THE FOREGOING CERTIFICATION OF THIS	18	/ /
19	TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF	19	/ /
20	THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT	20	/ /
21	CONTROL AND/OR DIRECTION OF THE CERTIFYING	21	/ /
22	REPORTER.	22	/ /
23		23	/ /
24	MARYELLEN COUGHLIN, RPR	24	/ /

  

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1	UNITED STATES DISTRICT COURT	1	Today's Date: July 31, 2006
2	DISTRICT OF MASSACHUSETTS	2	To: William P. Breen, Jr., Esq.
3	C.A. NO. 04-11842-PBS	3	Copied to: Michael Tumposky, Esq.
4		4	Robert F. Sullivan, Esq.
5	*****	5	From: Maryellen Coughlin, RPR
6	SCOTT RODGERS, *	6	Deposition of: Joseph A. Whittemore
7	Plaintiff *	7	Taken: June 1, 2006
8	vs. *	8	Action: Scott Rodgers vs. Correction
9	CORRECTION OFFICER ORCHID, *	9	Officer Orchid, et al
10	UNKNOWN CORRECTION OFFICER JOHN *	10	
11	DOE, JOE WHITMORE, DR. HOWARD, *	11	Enclosed is a copy of Mr. Whittemore's
12	JOHN SMITH, PLYMOUTH COUNTY, *	12	deposition. Pursuant to the Rules of Civil
13	Defendants *	13	Procedure, Mr. Whittemore has thirty days to
14	*****	14	sign the deposition from today's date.
15		15	Please have Mr. Whittemore sign the
16	I, JOSEPH A. WHITEMORE, do hereby	16	enclosed signature page. If there are any
17	certify, under the pains and penalties of	17	errors, please have him mark the page, line, and
18	perjury, that the foregoing testimony is true	18	error on the enclosed correction sheet. He
19	and accurate, to the best of my knowledge and	19	should not mark the transcript itself. This
20	belief.	20	addendum should be forwarded to all interested
21	WITNESS MY HAND THIS ____ day of	21	parties.
22	_____, 2006.	22	Thank you for your cooperation in this
23		23	matter.
24	JOSEPH A. WHITEMORE	24	

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